REMARKS

By this amendment, claims 1-31 are pending, in which claims 1, 3-6, 10, 12-15, 19-24, and 28-31 are currently amended. No new matter is introduced.

The Office Action mailed July 13, 2005 objected to claim 15 and rejected claims 29 and 31 under 35 U.S.C. § 112, second paragraph, claims 1-7, 10-16, 19-25, 28, and 30 under 35 U.S.C. § 102(b) as anticipated by *Novik* (U.S. 6,339,745), and claims 8, 9, 17, 18, 26, 27, 29, and 31 as obvious under 35 U.S.C. § 103(a) based on *Novik*.

Claim 15 has been amended to resolve a noted informality, and thus the objection is rendered moot.

Regarding the rejection under 35 U.S.C. § 112, claims 29 and 31 have been amended to resolve noted informalities, and thus the rejection should be withdrawn.

Claims 1, 3-6, 10, 12-14, 19-24, 28, and 30 have been amended to resolve observed informalities. No new matter has been introduced.

Applicants respectfully traverse the remaining rejections of the claims, as the applied art does not disclose or suggest "a web browser" as recited in independent claims 1, 10, 19, 28, and 30.

For example, independent claims 1 and 19 recite, "receiving, from a web browser, a request for at least one action to be performed by at least one corresponding telemetry device." Independent claim 10 recites, "a web browser configured to process a request for at least one action to be performed by at least one corresponding telemetry device, to display at least one geographical map indication of at least one location of each tracked object, and to transmit information for inclusion in a message, for transmission to the corresponding telemetry device, the message including information indicating the at least one action." Amended independent

claims 28 and 30 recite, "wherein the display device is configured to display at least one geographical map indication of at least one location of each tracked object via a web browser."

In its rejection of claim 1, the Office Action (p. 3) contends that *Novik* discloses the features of claim 1 at Figures 1 and 2, col. 2, and col. 4: 45-64. However, according to *Novik*, Figure 1 of *Novik* is an overview of a vehicle tracking station (col. 4: 19-20) and Figure 2 illustrates a "screen containing information concerning a vehicle" (col. 6: 34-35). *Novik* in col. 2 includes a listing of supposed objects of the invention of *Novik*. At col. 4: 45-64, *Novik* states:

> In the preferred embodiment, G.P.S. receiver 104 communicates the G.P.S. information to base station 112 using communicator 110. More specifically, communicator 110 communicates the G.P.S. information from G.P.S. receiver 104 to computer system 106 which is located at base station 108. Communicator 110 is located on or within vehicle 102. In the preferred embodiment, communicator 110 is a transceiver, thereby allowing the vehicle and base station to transmit and receive messages. Computer system 106 receives, records, processes, and displays the information.
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> Communicator 110 uses communication means which include but is not limited to radio, cellular, digital radio (such as Mobitex), or satellite communication means. In an alternate embodiment, base station 108 receives the G.P.S. information over the Internet. Communication means 110 transmits the G.P.S. information to a wireless network, which transmits the G.P.S. information to the wireless network's headquarters which then transmits the G.P.S. information over the Internet to base station 108.

While this cited passage briefly mentions that a wireless network's headquarters may transmit G.P.S. information "over the Internet to base station 108," there is no mention of any "web browser," much less "receiving, from a web browser, a request for at least one action to be performed by at least one corresponding telemetry device" as clearly recited by claim 1. In fact, the next paragraph (col. 4: 64 – col. 5: 9) of *Novik* states:

> The software of the present invention, which is referred to as update software, interacts with mapping and tracking software. In the preferred embodiment, the present invention is used with ISR FleetTrack™ for Windows. In an alternate embodiment, the present invention is used with NavTrack™ for DOS. ISR FleetTrack™ and NavTrack™ are mapping and tracking programs developed by Integrated Systems Research Corporation of 140 Sylvan Avenue, Englewood Cliffs, N.J. USA. The update software requires a Pentium™ based

> processor having storage capabilities and run Windows 95/98/NT or an equivalent. The system also requires digital maps which can be scanned by the user or provided by a third party.

Thus, the software of *Novik* is intended to be used with Windows or DOS mapping and tracking programs developed by Integrated Systems Research Corporation. Furthermore, at col. 13: 33-50, *Novik* mentions report integration for integrating databases with Microsoft ™ applications, such as Access ™, Excel ™, and Word ™, as well as Foxpro ™, none of which are "web browsers." There is no mention or suggestion anywhere in *Novik* of any "web browser" as recited by claim 1, or by independent claims 10, 19, 28, or 30.

Moreover, in its rejection of independent claim 10, the Office Action states (p. 4), "A web browser may be configured to process a request for at least one action to be performed by the at least one corresponding telemetry device, to display at least one geographical map indication of at least one location of each tracked object, and to transmit information for inclusion in a message for transmission to the corresponding telemetry device, the message indicating the at least one action (column 4, line 55 – column 6, line 2 and column 14, lines 1-15)." These cited portions of *Novik*, which overlap the portions of *Novik* discussed previously, continue to lack any mention or suggestion of any "web browser" as recited by each of independent claims 1, 10, 19, 28, or 30. To anticipate, every element and limitation of the claimed invention must be found in a single prior art reference, arranged as in the claim. *Karsten Mfg. Corp. v. Cleveland Golf Co.*, 242 F.3d 1376, 1383, 58 USPQ2d 1286, 1291 (Fed. Cir. 2001); *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 927 F.2d 1565, 1576, 18 USPQ2d 1001, 1010 (Fed. Cir. 1991).

Further, a single prior art reference anticipates a patent claim if it expressly or inherently describes each and every limitation set forth in the patent claim. *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Inherent anticipation

requires that the missing descriptive material is "necessarily present," not merely probably or possibly present, in the prior art. *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citing *Continental Can Co. USA, Inc. v. Monsanto Co.*, 948 F.2d 1264, 1268, 20 USPQ2d 1746, 1749 (Fed. Cir. 1991)). The Office Action has failed to meet its burden in any type of showing that *Novik* expressly or inherently describes each and every limitation set forth in claims 1, 10, and 19, and thus the anticipation rejection should be withdrawn.

Dependent claims 2-7, 11-16, and 20-25 are allowable for at least the same reasons as their respective independent claims, and are separately patentable on their own merits. For example, claims 5, 14, and 23 each recite "the at least one status is obtained by an Input/Output (I/O) interface of the at least one corresponding telemetry device." The Office Action (p. 3) states, "it is inherent that the at least one status is obtained by Input/Output interface of the telemetry device," with no further explanation of where a disclosure of any I/O interface of any telemetry device is to be found in *Novik*. Applicants respectfully submit that such a feature is not inherent, as "status" may be obtained by any number of means. As pointed out previously, inherent anticipation requires that the missing descriptive material is "necessarily present," not merely probably or possibly present, in the prior art. *In re Robertson, supra.* Thus, the rejection should be withdrawn.

Regarding the obviousness rejection of claims 8, 9, 17, 18, 26, and 27, the Office Action (p.5) correctly acknowledges that "Novik does not specifically disclose a method for preprocessing and transmitting information to a web browser." The Office Action then states (p. 5):

> However, several means for processing and transmitting data over the Internet were well known at the time of the invention by the applicant. It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant to choose an appropriate means for communicating with a web browser.

As discussed previously, *Novik* lacks any suggestion or disclosure of any "web browser." Thus, the Office Action's broad invocation of "several means" being "well known" such that it would have been obvious "to choose an appropriate means for communicating with a web browser" states no more than impermissible hindsight by the Office Action in wishful construction of recited features not suggested by *Novik*. For example, claims 8, 17, and 26 each recite, "wherein communication with the web browser includes transmission of geographic map information which is preprocessed by a server and sent in an image file with associating data to the web browser." Claims 9, 18, and 27 each recite, "wherein communication with the web browser includes transmission of information which is preprocessed by a servlet using a Java Object Input/Output Stream and Reflection configuration." None of the specific recited features of these claims are suggested anywhere in *Novik*, nor are they even acknowledged by the Office Action in its sweeping "well known" assertion. Moreover, Applicants assert that the reasoning that the Examiner puts forth for the rejection with respect to these features contravenes 35 U.S.C. § 132, which requires the Director to "notify the applicant thereof, stating the reasons for such rejection." This section is violated if the rejection "is so uninformative that it prevents the applicant from recognizing and seeking to counter the grounds for rejection." *Chester v. Miller*, 906 F.2d 1574, 15 USPQ2d 1333 (Fed. Cir. 1990). This policy is captured in the Manual of Patent Examining Procedure. For example, MPEP § 706 states that "[t]he goal of examination is to clearly articulate any rejection early in the prosecution process so that applicant has the opportunity to provide evidence of patentability and otherwise respond completely at the earliest opportunity." Furthermore, MPEP § 706.02(j) indicates that: "[i]t is important for an examiner to properly communicate the basis for a rejection so that the issues can be identified early and the applicant can be given fair opportunity to reply." Thus, if a next Office Action maintains the

rejection, Applicants respectfully request that the action be made non-final to give Applicants a fair opportunity to reply.

Furthermore, to the extent that the Office Action relies on "well known" means or "common knowledge," the APA requires the Patent Office to articulate and place on the record the "common knowledge" used to negate patentability. *In re Sang Su Lee*, No. 00-1158 (Fed. Cir., Jan. 18, 2002); *In re Zurko*, No. 96-1285 (Fed. Cir., Aug. 2, 2001). *In re Lee*, 277 F.3d 1338, 1344-45, 61 USPQ2d 1430, 1434-35 (Fed. Cir. 2002). Ordinarily, there must be some form of evidence in the record to support an assertion of common knowledge. See *Lee*, 277 F.3d at 1344-45, 61 USPQ2d at 1434-35 (Fed. Cir. 2002); *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697 (holding that general conclusions concerning what is "basic knowledge" or "common sense" to one of ordinary skill in the art without specific factual findings and some concrete evidence in the record to support these findings will not support an obviousness rejection). Applicants thus respectfully request that if the rejection is maintained, that a next Office Action provide specific factual findings and some concrete evidence in the record to support these findings, as required by law.

Regarding the rejection of claims 29 and 31, which recite, "determining whether the at least one tracked object includes a status of in range of a wireless service provider" and "transmitting the message to the telemetry device corresponding to the at least one tracked object if the at least one tracked object includes a status of in range of the wireless service provider," the Office Action (p. 5) correctly acknowledges that *Novik* fails to specifically disclose any type of "provider." However, the Office Action then states (apparently citing col. 11: 40-64):

> However, Novik teaches that the use of prohibited zones will reduce monthly bills. This teaching suggests that the use of prohibited zones may include the service areas of a service provider. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant to determine whether a vehicle is within the range of a service provider because this

determination would allow users to reduce air time bills by limiting out of range communications.

Applicants respectfully point out that *Novik*, at col. 11: 40-64, states:

> Referring to FIG. 16, the alert zones for event tracking are illustrated. Highlighted area 1602 is an alert zone. An alert zone is a designated area on a map. In the preferred embodiment, when a vehicle enters and/or exits a designated area, an alarm is triggered informing the user. The alert zones can include "prohibited" and "permitted" zones. If a zone is a "prohibited" zone, an alarm is triggered if the vehicle enters the prohibited zone. This situation can occur with rental cars leaving the United States and entering Canada or New Mexico. If a zone is a "permitted" zone, an alarm is triggered if the vehicle leaves the permitted zone. This situation can occur with delivery vehicles leaving their designated delivery area. In another embodiment, an alarm can be triggered if the vehicle is within a set distance of prohibited zone or permitted zone. Event tracking ca [*sic*] be accessed by either the event tracking databases or directly form the G.P.S. receiver on a vehicle.
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> Event tracking typically requires less processing and transmissions because vehicles are less likely to enter or exit a designated area. Since transmissions occur only when an event is triggered, the base station does not have to process as many transmissions. Since there are less transmissions, the air time bill for the transmissions is lower as well. Therefore, the event feature can be used to lower back-end operating costs and save on monthly air time bills.

Thus, *Novik* specifically discusses a "prohibited" zone example as rental cars leaving the U.S. and entering another country, and a "permitted" zone example as a delivery vehicle leaving its designated delivery area. The savings on monthly air time bills discussed by *Novik* is in regard to fewer transmissions used for event tracking because vehicles are less likely to enter or exit a designated area, which would trigger an event for processing and transmission. This discussion has nothing to do with "prohibited zones" that "may include the service areas of a service provider" so that it may be determined "whether a vehicle is within the range of a service provider because this determination would allow users to reduce air time bills by limiting out of range communications" as stated by the Office Action. In the cited passage, *Novik* is concerned with limiting triggering of events to limit transmissions, and not to limiting out of range communications to reduce air time bills. Thus, the rejection should be withdrawn.

Therefore, the present application, as amended, overcomes the objections and rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 425-8508 so that such issues may be resolved as expeditiously as possible.

Respectfully Submitted,

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